

**National Tribal Air Association (NTAA)**  
Monthly Conference Call Meeting Minutes  
Thursday, July 17, 2008  
2 pm - 3 pm EST  
Call-in No.: (866) 299-3188  
Conference Code: (919) 541-5624

Attendees

Kermit Snow  
Stephen Hartsfield  
Millie Holly  
Brandy Toft  
Randy Ashley  
Dan DeRoeck  
Lisa Riner

Technical Staff

Nanishka Albaladejo (EC/R Inc.)  
Bill Battye (EC/R Inc.)

**Agenda**

**1. PM<sub>2.5</sub> Final New Source Review (NSR) Implementation Rule**

On Thursday May 8, 2008, the Environmental Protection Agency (EPA) finalized the PM<sub>2.5</sub> Final NSR Implementation Rule. This rule was published in the Federal Register (FR) on May 16, 2008, and implemented on July 15, 2008. Mr. Dan DeRoeck noted that the Agency had received a notice for reconsideration.

General Provisions

*PM<sub>2.5</sub> Precursors*

The PM<sub>2.5</sub> Final NSR Implementation Rule addresses four pollutants that contribute to PM<sub>2.5</sub> emissions. These pollutants include sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOC), and ammonia. Sulfur dioxide is always considered a precursor and therefore, always regulated under this rule. NO<sub>x</sub> are also considered precursors, unless states can demonstrate that these emissions do not significantly contribute to ambient PM<sub>2.5</sub> concentrations. The PM<sub>2.5</sub> Final NSR Implementation Rule does not require states to account for both VOCs and ammonia, unless states can demonstrate that these emissions considerably contribute to ambient PM<sub>2.5</sub> concentrations.

*Major Source Threshold*

The Agency uses emission thresholds and rates as tools to evaluate sources' (current/new facilities) compliance with air permitting programs. Major source threshold are applied

to facilities that produce significant amounts of pollutants. These facilities are known as major sources and are required to obtain permits that demand the following emissions controls:

Under the PM<sub>2.5</sub> Final NSR Implementation Rule, sources listed under the current Federal prevention of significant deterioration (PSD) requirements [40 CFR 51.166(b)(1)(i)(a) and 52.21 (b)(1)(i)(a)] and producing 100 tons per year (tpy) or more are considered major sources. Sources that produce 250 tpy of emissions or more, but are not listed under the current Federal PSD requirements, are also considered major sources under this rule. In addition, under nonattainment area (NA) NSR requirements, sources that produce 100 tpy or more of PM<sub>2.5</sub> are also considered major sources.

#### *Significant Emission Rate*

Under the PM<sub>2.5</sub> Final NSR Implementation Rule, the significant emission rate for SO<sub>2</sub>, NO<sub>x</sub>, and VOC is 40 tpy, and 10 tpy for PM<sub>2.5</sub>.

#### *Condensable PM (CPM)*

According to the Notice of Proposed Rulemaking (NPRM) for the PM<sub>2.5</sub> Final NSR Implementation Rule, condensable PM (CPM) are required to be considered for PM<sub>10</sub> and PM<sub>2.5</sub> permits. However, according to Mr. DeRoeck, the Agency is currently not requiring states to take into account CPM in permits, unless a State Implementation Plan (SIP) condition exists. Instead, the Agency has adopted a transition period, so that CPM test methods could be efficiently and effectively validated. Each state will be required to account for CPM in permits after the rule is published on Jan. 1, 2011. Mr. DeRoeck noted that if the rule were finalized before Jan. 1, 2011 the Agency would consider shortening the transition period.

#### Prevention of Significant Deterioration Program for PM<sub>2.5</sub>

As of July 15, 2008, delegated states [under 40 CFR 52.21] without validated SIPs are required to prepare a SIP with new PM<sub>2.5</sub> Final NSR Implementation Rule requirements. In contrast, states with approved SIP programs will receive a longer period of time [3 years] to develop a SIP under new rule. For the time being, Mr. DeRoeck noted that states are allowed to continue using PM<sub>10</sub> requirements instead of following PM<sub>2.5</sub> requirements.

Pollutants [see *PM<sub>2.5</sub> Precursors*] subject to PSD permits will have to comply with PM<sub>2.5</sub> National Air Quality Standards (NAAQs) and include a PM<sub>2.5</sub> Air Quality Analysis and

modeling analysis. Until  $PM_{2.5}$  increments, significant impact levels (SILs) and significant monitoring concentrations (SMCs) are finalized [Dec. 2008], states will have to adopt their own.

#### Nonattainment Area NSR Program for $PM_{2.5}$

As of July 15, 2008, all states [under 40 CFR 51 appendix S] are required to comply with the  $PM_{2.5}$  program. Consequently, states would no longer be permitted to use  $PM_{10}$  requirements as a substitute for  $PM_{2.5}$ . States with approved SIP programs will receive 3 years to revise their SIP. These states must comply with  $PM_{2.5}$  appendix S requirements until their SIP complies with 40 CFR 51.165.

Emission control requirements listed under the NA NSR program for  $PM_{2.5}$ , includes lowest achievable emission rate (LAER) and offsets, which must be applied to  $PM_{2.5}$ , as of July 15, 2008. In contrast to SIPs [which follows precursor requirements as noted in *PM<sub>2.5</sub> Precursors*],  $SO_2$  is the only precursor accounted for under appendix S.  $PM_{2.5}$  emissions may be reduced by offsetting precursors using the following ratios:

$$SO_2 : PM_{2.5} \rightarrow 40 : 1$$

$$NO_x : PM_{2.5} \rightarrow 200 : 1$$

(east)

$$NO_x : PM_{2.5} \rightarrow 100 : 1$$

(west)

## **2. Lead National Air Quality Standards (NAAQS)**

One group member announced that the Agency was in the process of converting Lead documents (e.g., Fact Sheet) to PDF. He noted that this document does not include the model letter, which shall be distributed by July 21, 2008.

## **3. Clean Air Interstate Rule (CAIR) program**

On July 11, 2008, the Federal Court of Appeals vacated the Clean Air Interstate Rule (CAIR) program, along with associated Federal Implementation Plans (FIP). The Agency was challenged in five key areas; (1)  $SO_2$  allowances for unrestricted trading programs, (2) NC wanted additional reductions from states that were upwind from NC, (3) certain states (e.g., Florida, Minnesota, and Texas) argued that all or part of these states should be excluded from the CAIR regions for both  $PM_{2.5}$  and Ozone, (4) fuel adjustments faster for the development of the  $NO_x$  budget, and (5) CAIR's compliance

date of 2009 for the first set of NO<sub>x</sub> adjustments. Currently, the Agency is in the process of working with Department of Justice (DOJ) and other parties in determining what the next steps should be.

One group member expressed concern over states that have submitted and/or are in the process of submitting SIPs that account for CAIR program requirements. The Agency is aware of this problem, and is trying to determine the best approach to take in order to solve this obstacle. One group member noted the Agency is required to send failure to submit letters to states that have not had their SIP approved. Consequently, states must submit their SIP on time, regardless whether the CAIR requirements are taken into account.

#### **4. Miscellaneous**

##### Articles

###### *Washington Post*

One group member expressed their frustration with the Washington Post article that claimed the EPA would not finalize any new rules (e.g., regarding Clean Air Act, Clean Water Act, and Climate Change) until a new administration has taken office. The article also alluded that V.P. Dick Chaney has censored and excluded documentation, information, and testimonies given by Center for Disease Control (CDC) on the health effects of climate changes, along with the Agency's report on health effects, through political means/pressures. The group member noted that these documents and information are vital when determining the effect on health, due to changes in climate.

###### *Guardian Magazine*

One group member expressed their frustration with the Guardian's article that announced EPA's plans to reduce the value of a statistical life by nearly \$1 million, from \$7.9 million to \$6.9 million. Loosely, the article argued that a reduction in the value of life would reduce the quality of life. One group member noted that the article failed to mention that the new value proposed by the Agency (i.e., \$6.9 million) is by far the highest dollar value given to human [for the purpose of calculating human health and welfare] by any governmental agency. The group member added that the need for this value is a direct result of a 1980 Federal Act, signed by Ronald Reagan, which require agencies to calculate a cost benefit analysis (CBA) for any regulation proposed and implemented. The group member agreed with the article to some degree. He noted that lowering the value of life would likely result in deregulation, because the cost of

regulating (e.g., proposing a rule) is not as cost-effective as it was a year ago, particularly as it relates to human life.

### Meetings Schedule

#### *Next NTAA Meeting*

The following NTAA meeting is scheduled for August 14, 2008. Due to limitation in time, Class I comments and concerns will be discussed then.

#### *NSR Training*

The NSR Training is scheduled for July 29 through 31, 2008. Spaces are still available.

#### *Tribal NSR Rule Implementation Workgroup*

The next workgroup conference call is scheduled for July 24, 2008 at noon. A joint call with Regional workgroups is scheduled for August 4, 2008.